



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2018-0182; FRL-9983-44-Region 4]

Air Plan Approval and Air Quality Designation; Florida: Redesignation of the Hillsborough County Lead Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On March 26, 2018, the State of Florida, through the Florida Department of Environmental Protection, submitted a request for the Environmental Protection Agency (EPA) to redesignate the Hillsborough County lead Nonattainment Area (“Hillsborough Area” or “Area”) to attainment for the 2008 lead National Ambient Air Quality Standards (NAAQS) and to approve an accompanying State Implementation Plan (SIP) revision containing a maintenance plan for the Area. The Hillsborough Area is comprised of a 1.5 kilometer (km) radius in Tampa, Florida, surrounding the Envirofocus Technologies, LLC facility (Envirofocus). EPA is taking final action to determine that the Hillsborough Area is attaining the 2008 lead NAAQS; to approve the SIP revision containing the State’s maintenance plan for maintaining attainment of the 2008 lead standard and to incorporate the maintenance plan into the SIP; and to redesignate the Hillsborough Area to attainment for the 2008 lead NAAQS.

DATES: This rule is effective [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2018-0182. All documents in the docket are listed on the www.regulations.gov

web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Febres can be reached by phone at (404) 562-8966 or via electronic mail at febres-martinez.andres@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 12, 2008 (73 FR 66964), EPA promulgated a revised primary and secondary lead NAAQS of 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). Under EPA's regulations at 40 CFR part 50, the 2008 lead NAAQS are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with appendix R of 40 CFR part

50, is less than or equal to $0.15 \mu\text{g}/\text{m}^3$. *See* 40 CFR 50.16. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement.

EPA designated the Hillsborough Area as a nonattainment area for the 2008 lead NAAQS on November 22, 2010 (75 FR 71033), effective December 31, 2010, using 2007-2009 ambient air quality data. On March 26, 2018, Florida submitted a request for EPA to redesignate the Hillsborough Area to attainment for the 2008 lead NAAQS and submitted an associated SIP revision containing a maintenance plan for the Area. In a notice of proposed rulemaking (NPRM), published June 19, 2018 (83 FR 28402), EPA proposed to determine that the Hillsborough Area is attaining the 2008 lead NAAQS, based on complete, quality-assured, and certified ambient monitoring data for the 2014-2016 time period and continues to attain based on complete, quality-assured, and certified ambient monitoring data for the 2015-2017 time period; proposed to approve the SIP revision containing the State's maintenance plan for maintaining attainment of the 2008 lead standard; and proposed to redesignate the Hillsborough Area to attainment for the 2008 lead NAAQS.¹ The details of Florida's SIP revision and redesignation request, as well as the rationale for EPA's actions, are further explained in the NPRM. Comments on the proposed rulemaking were due on or before July 19, 2018. EPA did not receive any adverse comments on the proposed actions.

II. What are the Effects of These Actions?

Approval of Florida's redesignation request changes the legal designation of the portion of Hillsborough County, Florida, that is designated as nonattainment, found at 40 CFR 81.310,

¹ As mentioned in the NPRM, at the time of Florida's redesignation request, 2014-2016 data was the most recent quality-assured, complete, and certified data. When EPA took preliminary action to approve, 2015-2017 quality-assured, complete, and certified data was available, which continued to show that the Area is attaining the standard. In addition, preliminary 2018 data also indicates that the Area continues to attain the standard.

from nonattainment to attainment for the 2008 lead NAAQS. Approval of Florida's associated SIP revision also incorporates a plan into the SIP for maintaining the 2008 lead NAAQS in the Hillsborough Area through 2029.

III. Final Action

EPA is taking three separate but related final actions regarding Florida's March 26, 2018, redesignation request and associated SIP revision for the Hillsborough Area.

First, EPA is determining that the Area attained the 2008 lead NAAQS based on complete, quality-assured, and certified ambient monitoring data for the 2014-2016 period and that the Area continues to attain the standard based on complete, quality-assured, and certified ambient monitoring data for the 2015-2017 period.

Second, EPA is approving the maintenance plan for the Area and incorporating it into the Florida SIP. As described in the NPRM, the maintenance plan demonstrates that the Area will continue to maintain the 2008 lead NAAQS through 2029.

Third, EPA is approving Florida's request for redesignation of the Area from nonattainment to attainment for the 2008 lead NAAQS. This final rule approves the redesignation request for the Hillsborough Area and changes the official designation of the portion of Hillsborough County, Florida, bounded by a 1.5 km radius centered at UTM coordinates 364104 meters East, 3093830 meters North, Zone 17, which surrounds Envirofocus, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 lead NAAQS.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical

area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals and redesignations are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to

publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. These actions are not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: August 28, 2018.

Onis “Trey” Glenn, III,

Regional Administrator,

Region 4.

40 CFR parts 52 and 81 are amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart K—Florida

2. Section 52.520(e), is amended by adding an entry for “2008 Lead NAAQS Maintenance Plan for the Hillsborough Area” at the end of the table to read as follows:

§ 52.520 Identification of plan.

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(e) * * *

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register notice	Explanation
**	**	*	*	*
2008 Lead NAAQS Maintenance Plan for the Hillsborough Area.	3/26/2018	[Insert date of publication in <u>Federal Register</u>]	[Insert Federal Register citation]	

PART 81 – DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. In § 81.310, the table entitled “Florida—2008 Lead NAAQS” is amended under “Tampa, FL” by revising the entry for “Hillsborough County (part)” to read as follows:

§ 81.310 Florida.

* * * * *

Florida—2008 Lead NAAQS

Designated area	Designation for the 2008 NAAQS ^a	
	Date ¹	Type
Tampa, FL:		
Hillsborough County (part)		
Area is located within a 1.5 km radius centered at UTM coordinates 364104 meters E, 3093830 meters N, Zone 17, which surrounds the EnviroFocus Technologies facility.	<u>[Insert date of publication in the Federal Register]</u>	Attainment.
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^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ December 31, 2011 unless otherwise noted.

[FR Doc. 2018-19596 Filed: 9/10/2018 8:45 am; Publication Date: 9/11/2018]